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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,916	11/28/2001	Huub Van Aert	27500-14	1168

7590 08/28/2003

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EXAMINER

ZALUKAEVA, TATYANA

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 08/28/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/995,916

Applicant(s)

AERT ET AL.

Examiner

Tatyana Zalukaeva

Art Unit

1713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 08/08 Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 3-5 and 13-25.

Claim(s) withdrawn from consideration: 12.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Tatyana Zalukaeva
Tatyana Zalukaeva
Primary Examiner
Art Unit: 1713

Continuation of 2. NOTE: The proposed amendment to independent claim 13 introduces new range of a surfactant concentration, and a completely new limitation on the particle sizes of the latex. This will require new search and consideration. Furthermore, the proposed amendment if entered first of all will raise at the least an objection, if not rejection under 35 USC 112, second paragraph. because the word to after the words "by weight" in claim 13 renders it unclear.

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons set forth in the Final Office Action on the merits. In response to Applicants arguments on a premature of a Final rejection, Applicants arguments are not persuasive, and with all due respect to Applicants' opinion, Applicants attention is drawn to MPEP 706.07 (a) which explains that the final rejection is necessitated by Applicants amendment. In the instant case the independent claim 1 was replaced by independent claim 13 on which all other claims became dependent, and this claim significantly narrowed down the claims removing cobalt complexes from the scope of claim, and leaving ONLY dimers as chain transfer agents. Therefore, it is Applicants amendment that necessitated new grounds of rejection. Applicants are cordially invited to read MPEP 706.07 9a), because the excerpt cited by Applicants only partially cited the relevant place of MPEP. Applicants arguments with regard to prior art rejection are entirely based on the new limitation on the particle sizes that has not been entered. .